IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 270 of 2004 (S/B)

Rakesh Kumar Rana s/o Shri B.R.Rana,
R/o 6 Teghbahadur Road,
2 Dalanwala,
River Dale High School Road,
District Dehradun …… Petitioner

Versus

1. State of Uttaranchal through its Secretary
Avas Evam Nagar Vikas,
Uttaranchal Shashan, District Dehradun

2. State of Uttar Pradesh through its Secretary
Avas Evam Nagar Vikas, U.P. Sashan,
Lucknow.

3. Nainital Special Lake Area Development Authority
through its Secretary, Nainital.

4. Union of India through Secretary,
Ministry of Personal, Public Grievances and Pension,
Government of India,
New Delhi …… Respondents

……..

Sri Sharad Sharma, Advocate for the petitioner.
Sri Harendra Belwal, Brief Holder for respondent no. 1.
None for respondents nos. 2 and 4.
Sri Shobhit Saharia Advocate for respondent no. 3.

JUDGMENT

Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble Rajesh Tandon, J.

RAJEEV GUPTA, C.J. (Oral)

Sri Sharad Sharma, Advocate for the petitioner.

Sri Harendra Belwal, Brief Holder for respondent no. 1.

None for respondents 2 and 4.

Sri Shobhit Saharia, Advocate for respondent no. 3.

They are heard.

2. Petitioner Rakesh Kumar Rana has filed this writ petition for the following reliefs:-

> "I. Issue a writ, order or direction in the nature of certiorari quashing the order dated 17.08.2004 passed by respondent no. 1 annexed as Annexure No. 5 to the writ petition.
>
> II. Issue a writ, order or direction in the nature of mandamus commanding the respondent no. 1 to consider the petitioner's revised option for the State of Uttaranchal.
>
> III. Issue a writ, order or direction which this Hon'ble Court may deem fit and proper under the circumstances of the case.
>
> IV. Award the cost of the petition to the petitioner."

3. Petitioner Rakesh Kumar Rana, in substance, is seeking quashing of the order dated 17.08.2004 (Annexure 5) whereby he was finally allocated to the State of Uttar Pradesh.

4. Petitioner Rakesh Kumar Rana initially opted for the State of U.P. while giving his original option in the year 2000. The petitioner, however, revised his option in the year 2002 and opted for the State of Uttaranchal. He was finally allocated to the State of U.P. vide order dated 17.08.2004 (Annexure 5). He was relived from the State of Uttaranchal in compliance of the order dated 17.08.2004 on 21.08.2004.

5. It is also not in dispute that the petitioner after having been relieved from the State of Uttaranchal joined in the State of Uttar Pradesh on 03.09.2004 and he has been serving in the State of Uttar Pradesh for the last more than two years.

6. Sri Sharad Sharma, the learned counsel for the petitioner, vehemently argued that the respondents have passed the final allocation order allocating the petitioner to the State of U.P. without considering his revised option, though the respondents were directed by the High Court in his earlier writ petition vide order dated 07.07.2004 to consider the petitioner's revised option within a period of one month or to show-cause.

7. The learned counsel for the respondents, on the other hand, submitted that the petitioner's revised option was considered while passing the impugned order dated 17.08.2004, finally allocating the petitioner to the State of Uttar Pradesh.

8. Merely because the revised options of some others persons were accepted and the petitioner has been finally allocated to the State of Uttar Pradesh on the basis of his original option in spite of his revised option, it cannot be inferred that the respondents have not considered the petitioner's revised option while passing the impugned order, as 'Consideration' does not always mean 'Acceptance'.

9. We, therefore, do not find any illegality or infirmity in the impugned order dated 17.08.2004, whereby the petitioner has been finally allocated to the State of Uttar Pradesh.

10. The writ petition, therefore, is liable to be dismissed and is hereby dismissed.

11. No order as to costs.

(Rajesh Tandon, J.) 18.09.2006

(Rajeev Gupta, C.J.) 18.09.2006

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